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C.A.No. 5978 OF 1998
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5978/1998

BALAPPA N. TALWAR (DEAD) BY LRS. & ORS. APPELLANT (S)

VERSUS

LAXMAN RAMA TALWAR (DEAD) BY LRS AND ORS. RESPONDENT(S)

O R D E R

Heard parties.

This appeal by special leave is by the defendant against the judgment rendered by the Karnataka High Court in a Second Appeal. The plaintiff-respondent filed a suit for partition and his case, inter-alia, was that the parties were members of joint Hindu family and the suit property belonged to the joint family. As there was inconvenience in joint enjoyment, the same resulted in filing of the suit. The case of defendant was that there was previous partition, one of the suit properties was his self acquisition and had no connection with the joint family. The Trial Court dismissed the suit after recording finding against the plaintiff on both the points. On an appeal being preferred the lower Appellate Court reversed the decree of the Trial court and decreed the suit after recording findings that defendant failed to prove his case of previous partition and self acquisition of one of the suit properties. When the matter was taken to the High Court of Karnataka in Second Appeal, the findings of the lower appellate Court have been confirmed but the decree passed by it granting one-half share to the plaintiff in the suit properties, has been modified and it has been directed that the plaintiff shall be entitled to one fourth share in the suit property. It has been further directed that in case it is found that Gourawwa, who died during the pendency of the appeal in the High Court, had left behind no heirs and legal representatives, in the final decree proceeding, only one-third share shall be allotted to the plaintiff as well as the defendants. With the aforesaid modification, the High Court dismissed the appeal.

Having heard the parties and perused the impugned judgment, we are of the view that the High Court has not committed any error in disposing of the appeal in the manner indicated above as the Second Appeal, in our opinion as well, was concluded by finding of fact recorded by the lower appellate Court and no substantial question of law was involved therein.

The appeal is, accordingly, dismissed. No costs.

.....J

[B.N.AGRAWAL]

.....J

[Dr. AR. LAKSHMANAN]

New Delhi.
APRIL 15, 2004

ITEM NO.110 COURT NO.11 SECTION IVA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No. 5978/1998

BALAPPA N. TALWAR (DEAD) BY LRS. & ORS. APPELLANT (S)

VERSUS

LAXMAN RAMA TALWAR(DEAD) BY LRS AND ORS.RESPONDENT(S)
(With appln.(s) for exemption from filing O.T. and permission to submit additional document(s) and with office report)

Date : 15/04/2004 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL
HON'BLE DR. JUSTICE AR. LAKSHMANAN

For Appellant (s) Mr. K.R.Nagaraja, Adv.

For Respondent (s)

Ms. Kiran Suri, adv.

UPON hearing counsel the Court made the following
D E R

O R

The appeal is dismissed in terms of the signed order.

No costs.

(Sukhbir Paul Kaur)(Kanwal Singh)
Court Master Court Master

(Signed Order is placed on the file)